

OFFICE OF INFORMATION PRACTICES

STATE OF HAWAII
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To: House Committee on Judiciary & Hawaiian Affairs

From: Cheryl Kakazu Park, Director

Date: February 7, 2024, 2:00 p.m.
State Capitol, Conference Room 325

Re: Testimony on H.B. No. 1975
Relating to the Sunshine Law

Thank you for the opportunity to submit testimony on this bill, which would require documents and media presentations to board members and the public to be accessible to the disabled. The Office of Information Practices (OIP) offers comments supporting the intent of this bill to ensure that disabled individuals can obtain board packets and similar documents in an accessible format, but **opposes the placement of the provision in the Sunshine Law and the proposed enforcement by OIP.**

OIP administers the State's open meetings and open record laws, the Sunshine Law, part I of chapter 92, HRS, and the Uniform Information Practices Act, chapter 92F, HRS. As such, OIP's area of authority and expertise is in the requirements of those specific laws, which are intended to ensure that the formation and conduct of public policy is conducted as openly as possible. **OIP does not have expertise on the disability access standards set forth in the Americans with Disabilities Act (ADA), section 508 of the federal Rehabilitation Act (29 U.S.C. 794d), and related state laws, and OIP should not be charged with enforcing those standards via the unrelated Sunshine Law in**

potential conflict with other state and federal agencies that are charged with administering and enforcing the disability access standards.

Currently, the disability access requirements for Sunshine Law boards, as for government agencies generally, are set by laws setting requirements for disability accommodations and accessibility rather than being separately written into each law requiring a government agency to provide services or provide public access of some sort. This bill would write disability access standards directly into the Sunshine Law itself, and as such would open up the Sunshine Law's existing enforcement provisions, including the option to appeal a potential violation to OIP, to be used to enforce accessibility standards in the context of Sunshine Law boards.

The proposed placement in the Sunshine Law would also severely limit the application of this provision, since it would not apply to government publications generally or to agency hearing notices and related materials where no board is involved -- **this provision would apply only to materials and presentations to Sunshine Law board members.** Notably, this would mean the bill applied to only a very narrow subset of the "public documents and media presentations by public agencies" that the bill's purpose clause indicates it was intended to cover.

The bill apparently intends to deal with OIP's lack of expertise in disability access standards by requiring the Disability and Communication Access Board (DCAB) to assist OIP in preparing training materials and providing training and reviewing Sunshine Law complaints made to OIP that raise a potential Sunshine Law violation based on the new disability access standards proposed by this bill. **It makes no sense for DCAB to be advising OIP on the disability standards that DCAB or the Civil Rights Commission should be enforcing based on their expertise with the ADA and related laws.**

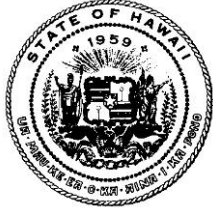
Moreover, OIP believes that the proposal to have DCAB tell OIP what to say in training and what decision to reach in accessibility complaints would not actually mean that OIP itself had no need to develop expertise in accessibility standards or to reallocate staff from working on open government complaints and inquiries to working on disability access complaints and inquiries. **Under the scheme proposed by this bill, OIP's Director and attorneys would still be the ones signing off on an OIP opinion deciding whether a board violated the Sunshine Law by failing to provide accessible materials or media presentations, and OIP would be the agency potentially defending such a decision in court. Regardless of DCAB's "assistance," OIP would therefore be obliged to develop expertise in this area of the law in order to stand behind its legal determinations.**

To develop new expertise in accessibility standards, OIP would need additional staff able to provide legal determinations and respond to general inquiries. An important part of OIP's work is providing immediate responses, through its Attorney of the Day (AOD) service, to inquiries from the public, boards, and agencies seeking advice and raising potential complaints under Sunshine Law and UIPA. If general inquiries and complaints about disability access standards were also to be added to OIP's jurisdiction, OIP would need additional staff to be able to keep up with those complaints and inquiries in addition to the ones related to open government that it currently is responsible for.

OIP is aware that there is not really an avenue similar to OIP's AOD service for people who either want general advice about what sort of accommodations may be required or who have a complaint about a government agency's failure to provide accessible services that they want to bring to the agency's attention without filing a formal complaint through the Civil Rights Commission or going to court. While OIP

is not prepared to take on this role of providing AOD services related to disability issues, **it would be more effective and better tailored to the intent of this bill to create new funded positions within the Civil Rights Commission or DCAB to provide such an AOD service**, either in a purely advisory capacity or with appropriate enforcement mechanisms. Such a service would not have to be limited to documents and media presentations given to only to Sunshine Law boards, but could instead be applied to publications and media presentations by government agencies more generally. Since the title of this bill is limited to the Sunshine Law, however, another vehicle would be needed to follow this broader approach.

Thank you for considering OIP's testimony.



DISABILITY AND COMMUNICATION ACCESS BOARD

1010 Richards Street, Room 118 • Honolulu, Hawaii 96813
Ph. (808) 586-8121 (V) • TTY (808) 586-8162 • Fax (808) 586-8129

February 7, 2024

TESTIMONY TO THE HOUSE COMMITTEE ON JUDICIARY AND HAWAIIAN AFFAIRS

House Bill 1975 – Relating to the Sunshine Law

The Disability and Communication Access Board (DCAB) supports the intent of House Bill 1975 – Relating to the Sunshine Law.

This bill would establish accessibility standards for the distribution of public documents and media presentations by public agencies. However, the Title II regulations of the Americans with Disabilities Act (28 CFR 35.160) already require state and local government entities to provide effective communication to persons with disabilities, including through the provision of auxiliary aid and services.

DCAB agrees that it is highly desirable that boards and commissions should require documents and presentations provided to them to be accessible for persons with disabilities. Inaccessible documents and presentations make it difficult or impossible for some persons with disabilities to fully participate in the public discourse. DCAB agrees that training boards and commissions on this requirement would be helpful. DCAB already provides extensive technical assistance on meeting the requirements of the ADA to State and local government entities.

However, DCAB is not an enforcement agency and does not have the appropriate or adequate staff to participate in evaluating the disposition of complaints filed with the Office of Information Practices. Therefore, additional staff and funding would be necessary.

Thank you for considering our position.

Respectfully submitted,

KIRBY L. SHAW
Executive Director



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**House of Representatives Committee on Judiciary and Hawai'i Affairs
Wednesday, February 7, 2024 2:00 P.M.**

Testimony by:

Yvonne Lau, Executive Administrator and Secretary of the Board of Regents

H.B. No. 1975 – RELATING TO THE SUNSHINE LAW.

Chair Tarnas, Vice Chair Takayama, and members of the Committee:

These comments on H.B. No. 1975 are offered in my capacity as the Executive Administrator and Secretary of the Board of Regents.

The Board of Regents of the University of Hawai'i (Board) has not yet had the opportunity to discuss this measure. Discussion is expected to occur at the Board's next meeting on February 16, 2024.

Thank you for the opportunity to offer comments on H.B. No. 1975.

HB-1975

Submitted on: 2/6/2024 2:36:14 AM

Testimony for JHA on 2/7/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
james gashel	National Federation of the Blind of Hawaii	Support	Remotely Via Zoom

Comments:

Testimony of James Gashel

Submitted on behalf of National Federation of the Blind of Hawai'i

Committee on Judiciary and Hawaiian Affairs (JHA)

Hawai'i State House of Representatives

Thirty-second Legislature, regular session of 2024

February 7, 2024, 2:00 PM, hearing on HB1975

Good afternoon chair, vice chair, and members. I am James Gashel, representing the National Federation of the Blind (NFB) of Hawai'i, testifying in strong support of HB1975. Thank you for scheduling this hearing.

The important purpose of this bill is to establish disability access requirements for distribution of public documents and media presentations by public agencies, addressing a gap in public policy by supporting equal access. Despite the Sunshine law's open government requirements, public agencies often fail to provide information in alternative accessible formats, resulting in lack of access for persons unable to use standard printed formats due to disabilities, blindness being one example. This lack of access denies the people's right to know, inconsistent with the legislature's declared intent.

Lack of access to public documents and media presentations at public meetings is a persistent, widespread failure among state, county, and municipal agencies. HB1975 will help by setting accessibility standards and providing training and technical assistance for public agencies. This will ensure that the Sunshine law better meets the needs of everyone in our state.

Here in Hawai'i, we are rightfully proud of the Sunshine Law, which gives all citizens the right to know what public agencies are planning and doing on our behalf. Implementation of the Sunshine Law isn't perfect, but the Law makes public access a higher standard than you will usually find in other states. In Hawai'i, the law expects our government to be a leader in openness.

People who can't read public documents or see powerpoint slide presentations live among us and are as much a part of our state's social and political life as other people who can read these documents and powerpoints. The legislature didn't intend to exclude us from the right to know, but we are excluded from knowing what's going on when documents are visual only. For me, being blind, documents that are print only are unidentified print objects. They might as well be written in a foreign language I can't understand.

The Office of Information Practices (OIP) has said it doesn't want to police disability access. They say disability access is covered by the federal Americans with Disabilities Act (ADA) and shouldn't be addressed by our state's Sunshine Law. We strongly disagree with this narrow view.

Using the "it's covered by the ADA" excuse is a convenient way for public agencies to avoid responsibility. It also makes the ADA less effective by overloading its enforcement with virtually every disability access issue imaginable. Access to public documents within our state is a responsibility of our state, not exclusively the federal government. This is true for people who can see the documents and should also be true for people like me who can't. By supporting HB1975, you'll be saying: "By being blind in Hawai'i, you haven't lost your right to know. You are a valued citizen, as much as anyone else."

HB1975 affirms the view that people with disabilities live among us and have an equal right to participate in public life. That's the bottom line of this bill. Please help to move it forward in the current session. Mahalo for your help on behalf of equal access.

HB-1975

Submitted on: 2/6/2024 9:15:55 AM

Testimony for JHA on 2/7/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Stan Young	Hawaii State Committee of Blind Vendors	Support	Written Testimony Only

Comments:

As Chair of this Committee (State and Federal recognized board), I find that the need for accessible public documents are necessary to effectively comply with the Sunshine law and conduct meetings and make correct decisions.



House Committee on Judiciary & Hawaiian Affairs
Honorable David A. Tarnas, Chair
Honorable Gregg Takayama, Vice Chair

RE: Comments on H.B. 1975, Relating to the Sunshine Law
Hearing: February 7, 2024 at 2:00 p.m.

Dear Chair and Members of the Committee:

My name is Ben Creps. I am a staff attorney at the Public First Law Center, a nonprofit organization that promotes government transparency.

Thank you for the opportunity to submit testimony **with comments on** H.B. 1975. We strongly support the intent of making public meetings and information more accessible for *all* members of our community. However, we do not take a position on the technical aspects of this measure.

Thank you again for the opportunity to testify with comments on H.B. 1975.



HB-1975

Submitted on: 2/6/2024 8:46:35 AM

Testimony for JHA on 2/7/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Tabatha Mitchell	Individual	Support	Remotely Via Zoom

Comments:

Aloha committee,

please support the blind of Hawaii and support this bill.

PETER L. FRITZ

Email: pfl legis@fritzhq.com

Committee on Judiciary & Hawaiian Affairs
The Honorable David A. Tarnas, Chair
The Honorable Gregg Takayama, Vice Chair

RE: **H.B. 1975 Testimony in Opposition, Support of the Intent and Comments**

Hearing: Friday, February 7, 2024 at 2:00 p.m.

Dear Chair, Vice Chair and Members of the Committee:

My name is Peter Fritz. I am an attorney, an individual with a disability, former member and Chair of the Rehabilitation Advisory Council, former member and Chair of the Disability and Communication Advisory Board (DCAB) and a longtime advocate for accessibility for individuals with disabilities. I am testifying in opposition to HB 1975, in support of the intent and offer comments.

I support accessibility for all members of the public, especially the disabled. I support the intent of this bill which appears to be to provide greater accessibility to documents. However, the bill is limited documents from public meetings. It does not apply to activities and documents that are not related to a government meeting.

The accessibility standards in this bill are different from the well-established accessibility standards of the Americans with Disabilities Act (ADA) and Rehabilitation Act (Section 508) that agencies that receive certain federal funds are required to follow. I am concerned that other parts of the HRS will be amended to incorporate different accessibility definitions which could create a patchwork quilt of different accessibility standards. This would make it difficult to administer these different standards. It would also mean that complainants will not be able to draw upon the extensive body of case law, settlements and regulations from the ADA and Section 508 for authority about whether the documents were accessible.

This bill should be deferred until Hawaii adopts clear and uniform accessibility standards that apply to all electronic documents for all activities of an agency, not just documents that are used at a meeting. It is suggested that § 27-43, HRS (ETS) be amended to provide enabling legislation that would have accessibility standards that apply to all agencies and all activities of those agencies. This bill should be deferred until Hawaii has adopted uniform and clear accessibility standards into the Hawaii Revised Statutes or adopts the standards of Section 508 as more than 40 other states have done. See

Exhibit 1. A copy of Florida's adoption of Section 508 accessibility standards is attached as Exhibit 2.

Notices Posted to the State Calendar Are Accessible.

I am reviewing all of the meeting notices filed pursuant to Chapter 92, HRS that are being posted on the State Calendar. In the past 12 months, only 2 meeting notices have not met the accessibility requirements of Section 508 of the Rehabilitation Act (electronic documents) and/or Title II (State and Local Governments) of the Americans with Disabilities Act. After I contacted the agencies, the agencies posted ADA accessible documents.

I have been requesting **board packets** and the board packets that I have received met the accessibility requirements of the ADA and Section 508.

I attribute the increase accessibility to Hawaii's adoption of Adobe Acrobat and Microsoft Office 365 which has Microsoft Word's ability to convert Word documents to PDF files.

Act 174 Created a Working Group to draft a Report of Suggested Accessibility Standards. The standards in the report are not binding on any agency.

Act 174, Session Laws 2022, established a working group to draft a report proposing accessibility standards.

The Act 174 report is a recommendation and is not law. The HRS will have to be amended to provide authority for Hawaii to adopt the standards in the Act 174 report. Once enabling legislation is passed, ETS or some other agency will have to draft rules and hold hearings on any proposed rules.

Accessibility Definitions

The accessibility standards in this bill are vague and lack the specificity needed to analyze claims of discrimination. For example, the definition of Individual with a disability does not follow the

definition in the ADA or Section 508 which are backed by regulations and case law.

Without well-defined accessibility standards, OIP or any other agency will have to develop new case law and administrative decisions based on these new standards which are different from the common ADA and Section 508 definitions. This could preclude using ADA and Section 508 case law, settlement agreements and regulations.

Undue Burden

This bill does not have any provisions relating to whether a request for an accommodation is an undue burden. As an example, someone wanting to visit the Makapu'u Point Lighthouse Trail could claim that it is too steep for their wheelchair and that the state should create a horizontal tunnel to the lighthouse and a vertical tunnel for an elevator to take them to the lighthouse. Providing this accommodation would be an undue burden on a state agency. Another example would be providing an agenda and braille of a 100 page document when effective communication could be provided by a recording of the agenda or an accessible electronic document. There is a significant body of case law dealing with what constitutes an undue burden.

Undue burden was an issue in my Federal ADA law suit against an agency for disability discrimination.

Aggrieved Parties Have Remedies When Meeting Materials Are Not Accessible.

A person that claims that meeting materials were not accessible has several remedies under existing law.

First, an individual can **file a complaint under the agency's Grievance Policy**. Title II of the ADA requires that each agency have an ADA Coordinator and the agency is required to have a Grievance Policy.

Second, an individual could **file a complaint with the HCRC** under § 368-1.5. The HRS was amended to allow the HCRC to accept accessibility discrimination complaints against agencies that

Peter L. Fritz
Testimony in Support of HB 1975
Hearing February 7, 2024 at 2:00 p.m.
Page 4

receive federal funds. In addition, The HCRC can issue a right to sue letter.

Third, an individual could **file an action in Federal District Court**. It is faster than filing in State court. This is the procedure that I followed on discrimination complaints against a state agency that claimed an accommodation was an undue burden.

I respectfully request that this bill be deferred.

Thank you for the opportunity to testify.

State Accessibility Policies

State	Has Web Site Policy?	Based on...	Has Software Procurement Policy?
Alabama	Yes	Section 508	No
Alaska	Yes	Section 508, WCAG 2.0	No
Arizona	Yes	A.R.S. § 41-3504(A (1(a)))	No
Arkansas	Yes	Section 508	Yes ^[5]
California	Yes	Section 508, WCAG 1.0 AA	No
Colorado	Yes	Section 508	No
Connecticut	Yes	WCAG 1.0 A	No
Delaware	No		No
District of Columbia	Yes	Section 508	No
Florida	Yes	Section 508	No
Georgia	Yes	WCAG 1.0	No
Hawaii	Yes	Section 508	No
Idaho	Yes	Section 508	No
Illinois	Yes	Section 508, WCAG 1.0	Yes
Indiana	Yes	Section 508	Yes
Iowa	Yes	WCAG 2.0 AA	No
Kansas	Yes	Section 508, WCAG 2.0 AA	Yes
Kentucky	Yes	Section 508, WCAG 1.0 AA	Yes
Louisiana	No	Encouraged to meet Section 508	No
Maine	Yes	Section 508, WCAG 1.0, WCAG 2.0	No
Maryland	Yes	Section 508	No
Massachusetts	Yes	Section 508	Yes
Michigan	Yes	Section 508	No
Minnesota	Yes	Section 508, WCAG 2.0	Yes
Mississippi	Yes	WCAG 1.0	No
Missouri	Yes	Section 508	Yes
Montana	Yes	Section 508	No
Nebraska	Yes	Section 508	Yes
Nevada	No		No
New Hampshire	Yes	Section 508	No
New Jersey	Yes	Section 508	No
New Mexico	Yes	WCAG 1.0 AA	No
New York	Yes	Section 508	No

State Accessibility Policies

State	Has Web Site Policy?	Based on...	Has Software Procurement Policy?
North Carolina	No		No
North Dakota	No		No
Ohio	Yes	Section 508	No
Oklahoma	Yes	Section 508	Yes
Oregon	No		No
Pennsylvania	Yes	Section 508	No
Rhode Island	No		No
South Carolina	Yes	Section 508, WCAG 1.0	No
South Dakota	Yes	Section 508, W3C Web Content Guidelines	No
Tennessee	Yes	Section 508	No
Texas	Yes	Section 508	Yes
Utah	Yes	WCAG 1.0	No
Vermont	Yes	Section 508, W3C Web Content Guidelines	No
Virginia	Yes	Section 508	No
Washington	No	Encouraged to meet Section 508, W3C	No
West Virginia	Yes	Section 508	No
Wisconsin	Yes	Section 508	No
Wyoming	No		No

§ 282.601. Accessibility of electronic information and information technology

(1) In order to improve the accessibility of electronic information and information technology and increase the successful education, employment, access to governmental information and services, and involvement in community life, the executive, legislative, and judicial branches of state government shall, when developing, competitively procuring, maintaining, or using electronic information or information technology acquired on or after July 1, 2006, ensure that state employees with disabilities have access to and are provided with information and data comparable to the access and use by state employees who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

(2) Individuals with disabilities who are members of the public seeking information or services from state agencies that are subject to this part shall be provided with access to and use of information and data comparable to that provided to the public who are not individuals with disabilities, unless an undue burden would be imposed on the agency.

History:

s. 73, ch. 2006 - 227.

EXHIBIT 2

§ 282.602. Definitions

As used in this part, the term:

- (1) "Accessible electronic information and information technology" means electronic information and information technology that conforms to the standards for accessible electronic information and information technology as set forth by s. 508 of the Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194 .
- (2) "Alternate methods" means a different means of providing information to people with disabilities, including product documentation. The term includes, but is not limited to, voice, facsimile, relay service, TTY, Internet posting, captioning, text-to-speech synthesis, and audio description.
- (3) "Electronic information and information technology" includes information technology and any equipment or interconnected system or subsystem of equipment that is used in creating, converting, or duplicating data or information. The term includes, but is not limited to, telecommunications products such as telephones, information kiosks and transaction machines, Internet websites, multimedia systems, and office equipment such as copiers and facsimile machines. The term does not include any equipment that contains embedded information technology that is an integral part of the product if the principal function of the technology is not the acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information.
- (4) "Information technology" means any equipment or interconnected system or subsystem of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information. The term includes computers, ancillary equipment, software, firmware and similar procedures, services, and support services, and related resources.
- (5) "Undue burden" means significant difficulty or expense. In determining whether an action would result in an undue burden, a state agency shall consider all agency resources that are available to the program or component for which the product is being developed, procured, maintained, or used.
- (6) "State agency" means any agency of the executive, legislative, or judicial branch of state government.

History:

s. 73, ch. 2006 - 227.

§ 282.603. Access to electronic and information technology for persons with disabilities; undue burden; limitations

(1) Each state agency shall develop, procure, maintain, and use accessible electronic information and information technology acquired on or after July 1, 2006, that conforms to the applicable provisions set forth by s. 508 of the Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194, except when compliance with this section imposes an undue burden; however, in such instance, a state agency must provide individuals with disabilities with the information and data involved by an alternative method of access that allows the individual to use the information and data.

(2) This section does not require a state agency to install specific accessibility-related software or attach an assistive technology device at a work station of a state employee who is not an individual with a disability.

(3) This section does not require a state agency, when providing the public with access to information or data through electronic information technology, to make products owned by the state agency available for access and use by individuals with disabilities at a location other than the location at which the electronic information and information technology are normally provided to the public. This section does not require a state agency to purchase products for access and use by individuals with disabilities at a location other than at the location where the electronic information and information technology are normally provided to the public.

History:

s. 73, ch. 2006 - 227.

§ 282.604. Adoption of rules

The Department of Management Services shall, with input from stakeholders, adopt rules pursuant to ss. 120.536(1) and 120.54 for the development, procurement, maintenance, and use of accessible electronic information technology by governmental units.

History:

s. 73, ch. 2006 - 227.

§ 282.605. Exceptions

(1) This part does not apply to electronic information and information technology of the Department of Military Affairs or the Florida National Guard if the function, operation, or use of the information or technology involves intelligence activities or cryptologic activities related to national security, the command and control of military forces, equipment that is an integral part of a weapon or weapons system, or systems that are critical to the direct fulfillment of military or intelligence missions. Systems that are critical to the direct fulfillment of military or intelligence missions do not include a system that is used for routine administrative and business applications, including, but not limited to, payroll, finance, logistics, and personnel management applications.

(2) This part does not apply to electronic information and information technology of a state agency if the function, operation, or use of the information or technology involves criminal intelligence activities. Such activities do not include information or technology that is used for routine administrative and business applications, including, but not limited to, payroll, finance, logistics, and personnel management applications.

(3) This part does not apply to electronic information and information technology that is acquired by a contractor and that is incidental to the contract.

(4) This part applies to competitive solicitations issued or new systems developed by a state agency on or after July 1, 2006.

History:

s. 73, ch. 2006 - 227.

§ 282.606. Intent

It is the intent of the Legislature that, in construing this part, due consideration and great weight be given to the interpretations of the federal courts relating to comparable provisions of s. 508 of the Rehabilitation Act of 1973, as amended, and 29 U.S.C. s. 794(d), including the regulations set forth under 36 C.F.R. part 1194, as of July 1, 2006.

History:

s. 73, ch. 2006 - 227.

JHA testimony

From: Ann Lemke <ann.lemke@gmail.com>
Sent: Tuesday, February 6, 2024 11:26 AM
To: JHA testimony
Cc: James Gashel
Subject: Supportfor HB1975

[You don't often get email from ann.lemke@gmail.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Honorablecommittee chair, vice chair, and members,

I am Ann Lemke, Ph.D., a retired blind professional, and I am writing to express my strong support for HB1975.

There are those who believe this legislation is not needed, since the ADA covers access issues. Actually, in practice, states that require access for people with disabilities as part of their civil rights commitments aare much more likely to provide timely and appropriate access to citizens with disabilities.

In my case, I am totally blind; if powerpoints and other documents are not provided in an accessible manner, I simply don't have access to the information that was meant to be provided to the public.

If I can't read a document because my screen-reading software says it's an image, I have effectively been denied access to that information.

This level of access is readily achievable but needs to be constantly monitored, given the rapidly changing technology landscape. Please don't leave us in the dark, outside of civic participation in the affairs of our state and local public entities.

Respectfully,

Ann Lemke, Ph.D.

HB-1975

Submitted on: 2/6/2024 11:51:33 AM

Testimony for JHA on 2/7/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Emerie Mitchell-Butler	Individual	Support	Written Testimony Only

Comments:

Testimony of Emerie Mitchell-Butler

Committee on Judiciary and Hawaiian Affairs (JHA)

Hawaii State House of Representatives

Thirty-second Legislature, regular session of 2024

February 7, 2024, 2:00 PM, hearing on HB1975

Good afternoon chair, vice chair, and members. I am Emerie Mitchell-Butler, testifying in strong support of HB1975. Thank you for scheduling this hearing.

HB1975 exists to improve our already admirable Sunshine Law, which gives the public the right to know what public agencies do on our behalf. I, as a citizen of Hawai‘i, can attend public meetings. However, I, as a blind citizen of Hawai‘i, cannot read printed documents and slides presentations made available at those meetings. This excludes me from understanding the proceedings. Solutions exist to solve this problem, but they are not being implemented.

Hawai‘i is already a leader in legislation regarding the public’s knowledge of public agencies. Let it also be a leader in fulfilling everyone’s right to know, not just some people’s. I urge you to support this bill through the session to improve access and transparency for every citizen of Hawai‘i.

Thank you for your time and consideration,

Emerie Mitchell-Butler

HB-1975

Submitted on: 2/5/2024 10:05:18 PM

Testimony for JHA on 2/7/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Lila Mower	Individual	Support	Written Testimony Only

Comments:

I STRONGLY SUPPORT THIS MEASURE.

HB-1975

Submitted on: 2/6/2024 8:02:12 AM

Testimony for JHA on 2/7/2024 2:00:00 PM

Submitted By	Organization	Testifier Position	Testify
Clifford Miyashiro	Individual	Support	Written Testimony Only

Comments:

Good afternoon chair, vice chair, and members. I am Clifford Miyashiro, testifying in strong support of HB1975. Thank you for scheduling this hearing.

The important purpose of this bill is to establish disability access requirements for distribution of public documents and media presentations by public agencies. Despite the Sunshine Law's open government requirements, public agencies often fail to provide information in alternative accessible formats, resulting in lack of access for persons unable to use standard printed formats due to disabilities, blindness being one example. This lack of access denies our right to know, inconsistent with the legislature's declared intent.

Lack of access to public documents and media presentations at public meetings is a persistent, widespread failure among state, county, and municipal agencies. HB1975 will help by setting accessibility standards and providing training and technical assistance for public agencies. This will ensure that the Sunshine law better meets the needs of everyone in our state.

Here in Hawaii, we are rightfully proud of the Sunshine Law, which gives all citizens the right to know what public agencies are planning and doing on our behalf. Implementation of the Sunshine Law isn't perfect, but the Law makes public access a higher standard than you will usually find in other states. In Hawaii, the law expects our government to be a leader in openness.

People who can't read public documents or see powerpoint slide presentations live among us and are as much a part of our state's social and political life as other people who can read these documents and powerpoints. The legislature didn't intend to exclude us from the right to know, but we are excluded from knowing what's going on when documents are visual only. For me, being blind, documents that are print only are unidentified print objects. They might as well be written in a foreign language I can't understand.

The Office of Information Practices (OIP) has said it doesn't want to police disability access. They say disability access is covered by the federal Americans with Disabilities Act (ADA) and shouldn't be addressed by our state's Sunshine Law. We strongly disagree with this narrow view.

Using the "it's covered by the ADA" excuse is a convenient way for public agencies to avoid responsibility. It also makes the ADA less effective by overloading its enforcement with virtually every disability access issue imaginable. Access to public documents within our state is a responsibility of our state, not exclusively the federal government. This is true for people who can see the documents and should also be true for people like me who can't. By supporting HB1975, you'll be saying: "By being blind in Hawaii, you haven't lost your right to know. You are a valued citizen, as much as anyone else."

HB1975 affirms the view that people with disabilities live among us and have an equal right to participate in public life. That's the bottom line of this bill. Please help to move it forward in the current session. Mahalo for your help on behalf of equal access.